

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KATLYN ANN WELLS,)	Case No. 4:25-cv-00167-DCN
CHERYL ANN SCHWARZWAELDER,)	
as Co-Trustee of Katlyn Ann)	
Schwarzwaelder Irrevocable Trust of)	
July 6, 1998,)	
ARTHUR L. SCHWARZWAELDER,)	
as Co-Trustee of Katlyn Ann)	
Schwarzwaelder Irrevocable Trust of)	
July 6, 1998, THE NORTHERN BORDER,)	
LLC (a Pennsylvania limited liability)	
company), VON SCHWARZ DOBERMAN)	
KENNEL, LLC (an Ohio limited liability)	
company), VON SCHWARZ DOBERMAN)	
KENNEL, LLC (a Pennsylvania limited)	
liability company), and THE)	CONSENT MOTION FOR EXTENSION OF
NORTHERN BORDER K9 ATHLETE)	TIME TO ANSWER OR OTHERWISE
CENTER, LLC (an Ohio Limited liability)	RESPOND TO PLAINTIFFS' COMPLAINT
company),)	
)	
Plaintiffs,)	
)	
v.)	
)	
NORFOLK SOUTHERN CORPORATION)	
and NORFOLK SOUTHERN RAILWAY)	<u>JURY TRIAL DEMANDED</u>
COMPANY,)	
)	
Defendants.)	

AND NOW, come Defendants, Norfolk Southern Railway Company and Norfolk Southern Corporation (collectively "Norfolk Southern"), by and through their counsel, Dickie, McCamey & Chilcote, P.C., and file the within Consent Motion for Extension of Time to Answer or Otherwise Respond to Plaintiffs' Complaint, stating as follows:

1. On March 11, 2025, the Court entered an Order granting Norfolk Southern's Consent Motion for Extension of Time to answer or otherwise respond to the Complaint to May 1, 2025. *See* Doc. #17.

2. The parties have agreed to a further extension of time for Norfolk Southern to answer or otherwise respond to the Complaint to June 2, 2025, and respectfully request that the Court grant this Motion approving the same.

3. As the Court knows, there are 13 other cases pending in the Northern District of Ohio that assert claims against Norfolk Southern arising from the February 3, 2023, derailment of a Norfolk Southern Railway Company train in East Palestine, Ohio. *See* Doc. # 15 at ¶ 2 (listing cases).

4. Norfolk Southern filed Motions to Reassign these cases to Judge Pearson, who has overseen for the past two-plus years the class action litigation arising out of the February 3, 2023 train derailment in East Palestine, Ohio. *See, In re: East Palestine Train Derailment*, Civil Action No. 4:23-cv-00242.

5. On March 31, 2025, the Court entered an Order [non-document] denying Norfolk Southern's Unopposed Motion to Reassign that was filed in this case.

6. Norfolk Southern's motions requesting reassignment remain pending in all cases except for this case and *Nulfco, Inc., et al. v. Norfolk Southern Corp., et al.*, 4:25-cv-00179, in which Norfolk Southern's Motion for Reassignment also was denied.¹

¹ Judge Gaughan entered Orders [non-document] on March 11, 2025, staying *Huff et al. v. Norfolk Southern Corp. et al.*, 4:25-cv-00165 and *McKim's Honeyvine, LLC v. Norfolk Southern Corp., et al.*, 4:25-cv-00178 "pending a decision by Judge Pearson on reassignment."

7. Following Norfolk Southern's \$600 million settlement of the class action, Judge Pearson is currently presiding over the trial on Norfolk Southern's contribution claims in *In re: East Palestine Train Derailment* that began on March 31, 2025. Understandably, her focus has been on that trial, including all of the required pre-trial work that preceded its start.

8. Notwithstanding this Court's denial of Norfolk Southern's Motions to Reassign in this case and *Nulfoo*, Norfolk Southern continues to believe that a coordinated approach to the 14 cases pending in the Northern District of Ohio will best serve judicial economy and efficiency, will conserve judicial resources, facilitate an efficient resolution of the cases, and avoid inconsistent rulings in the related cases. *See* Doc. #15 at ¶ 6.

9. As part of that coordinated approach, Norfolk Southern wishes to align its deadlines to answer or otherwise respond to the Complaints so that those deadlines all fall on the same date.²

10. Given the pendency of the Motions to Reassign, and in light of the ongoing trial being overseen by Judge Pearson, Norfolk Southern respectfully requests a further extension of time to June 2, 2025 for Norfolk Southern to file an Answer or otherwise respond to Plaintiffs' Complaint.

11. This case remains in its infancy, and the requested extension will not unduly delay the proceedings or the overall resolution of the case.

12. Plaintiffs' counsel has consented to this motion and the requested extension of time until June 2, 2025.

² Norfolk Southern is filing similar consent motions for extensions of time to June 2, 2025 in each of the other thirteen recently filed cases, except *Huff, et al. v. Norfolk Southern Corp., et al.*, C.A. No. 4:25-cv-00165 and *McKim's Honeyvine, LLC v. Norfolk Southern Corp., et al.*, C.A. No. 4:25-cv-00178, which Judge Gaughan stayed by Orders dated March 11, 2025. *See* Doc. # 15 at ¶ 2 (listing cases).

WHEREFORE, Defendants, Norfolk Southern Railway Company and Norfolk Southern Corporation, respectfully request that this Honorable Court enter an Order granting the within motion.

Dated: April 17, 2025

Respectfully submitted by,

DICKIE, McCAMEY & CHILCOTE, P.C.

/s/ Scott D. Clements

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Norfolk Southern Corporation

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2025, I filed the foregoing for **Consent Motion for Extension of Time to Answer or Otherwise Respond to Plaintiffs' Complaint** with the Clerk using the CM/ECF System, which will send notification of such filing to the following:

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By: /s/ Scott D. Clements
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